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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,871	12/21/2001	Hiroyuki Kawae	01-764	1848

7590 06/19/2003

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EXAMINER

QUARTERMAN, KEVIN J

ART UNIT PAPER NUMBER

2879

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/026,871

Applicant(s)

KAWAE ET AL.

Examiner

Kevin Quarterman

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Reference sign "6d" of Figures 9 and 10 is not mentioned in the description. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. Figures 9 and 10 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sano (JP 200002216).

5. The Examiner notes that US Patent No. 6472765 is being used as an English translation of the Japanese reference.
6. Regarding independent claim 1, Figure 1 of Sano shows a light-permeable fluorescent cover (10) comprising a fluorescent material (7). The Examiner notes that the functional recitations of the fluorescent material have not been given patentable weight because an apparatus must be distinguished from the prior art in terms of structure rather than function. Apparatus claims cover what a device *is*, not what a device *does* (MPEP § 2114 [R-1]).
7. Regarding claims 2-4 and 7, the functional recitations have not been given patentable weight because of the reasons given above.
8. Regarding claims 5-6, Sano discloses the fluorescent material of the fluorescent cover including fluorescent lanthanoid aluminates activated by manganese (col. 5, ln. 32-44).
9. Regarding claim 8, Sano discloses the fluorescent cover comprising a base material formed of one or more resins selected from the group consisting of silicon, polyester, acrylic acid, epoxy, urethane, nylon, polyamide, polyimide, vinyl chloride, polycarbonate, polyethylene, Teflon, polystyrene, polypropylene and polyolefin (col. 4, ln. 45-49).
10. Regarding claim 9, Figure 1 of Sano shows the cover having a varied thickness along emission intensity distribution of the light-emitting diode.
11. Regarding claim 10, Figure 1 of Sano shows the cover being attached on and in close and clinging contact to the light-emitting diode.

12. Regarding claim 11, the cover shown in Figure 1 of Sano is thermally shrinkable (col. 2, ln. 41-44).

13. Regarding claim 12, Sano discloses a light permeable adhesive agent adhering the cover to the light-emitting diode (col. 5, ln. 52-53).

14. Regarding claim 13, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, the limitation of the method of forming the cover has not been given patentable weight.

15. Regarding claim 14, Sano discloses the fluorescent material including manganese (col. 5, ln. 32-44).

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen (US 5962971) discloses an LED structure with ultraviolet-light emission chip and multi-layered resins. Shiraishi (JP 10200165) discloses a semiconductor light-emitting device.


**Contact Information**

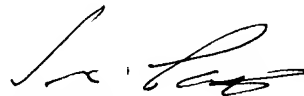
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quarterman whose telephone number is (703) 308-6546. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703) 305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Kevin Quarterman  
Examiner  
Art Unit 2879

kq   
June 15, 2003

  
Vip Patel  
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